

described or disclosed. The contentions of the Office Action go on to assert that based on the reference JP '051, virtually any mounting including alleged mountings described in JP '122 can reasonably be combined in an attempt to render obvious the subject matter of the pending claims.

Applicants have, on three previous occasions, argued that the rejections of at least independent claim 1 are incomplete and do not meet the applicable standards for some showing why one of ordinary skill in the art may have been motivated to combine the references in the manner suggested with any degree of predictability or any reasonable expectation of success. In each previous instance, the Office Actions have responded in the Response to Arguments section generally indicating that because there is no mount shown in JP '051, one of ordinary skill in the art would have been forced to look elsewhere. Further, given the disclosure of a support structure for an engine in JP '122, there is nothing in JP '122 that would preclude its use with a variable compression engine even though a fixed compression engine is that which is shown. This is the totality of the argument that is set forth to support the conclusion that both references would suggest the asserted combination. This conclusion, now in several Office Actions, is considered to stretch the limits of reasonability regarding the required showing to support any obviousness rejection.

Claim 1 recites a mount apparatus for mounting a variable compression ratio internal combustion engine in which the compression ratio can be varied by moving a cylinder block and a crank case relatively along the axial direction of a cylinder on a vehicles body member, wherein: said variable compression ratio internal combustion engine is mounted on said vehicle body member by at least two portions including a first mount portion provided on a transmission apparatus to which a crank shaft is linked and a second mount portion provided on the variable compression ratio internal combustion engine in a state in which said cylinder block is located above said crank case; and said second mount portion is provided on said

crank case, and wherein the variable compression ratio internal combustion engine is mounted on the vehicle body member such that the cylinder block moves relative to the vehicle body member a greater distance than the crank case moves relative to the vehicle body member, when the compression ratio is varied. Because of the unique configurations of variable compression ratio engines, it is not as simple a matter as this series of Office Actions may have suggested that any conventional capability by which to mount an engine in a vehicle may be referenced. Specifically, it is clear from the claim language that portions of this engine are intended to move greater distances relative to one another, in fact, the engine is designed in a manner to do just that. It is for this reason that conventional mounting may not be appropriate. In fact, in the background and the description sections of Applicants' disclosure, it is specifically noted that conventional means of mounting have certain described shortfalls.

Throughout the prosecution of this application, none of the Office Actions, including the Office Action to which this Request responds, have shown any reasonable predictability why one of ordinary skill in the art would have made the asserted combination, or any reasonable expectation of success in addressing the objectives that are addressed by the subject matter of the pending claims by making such a combination. Simply asserting that these references are combinable because the Office Action says they are does not meet the requirements for a showing of some predictability or some reasonable expectation of success on the part of one of ordinary skill in the art in making the asserted combination.

Further, even under a post-KSR analysis, it has not been shown under any rationale to support the conclusion of obviousness how the asserted combination would have yielded any predictable results. In fact, quite to the contrary, the disclosure of JP '122 teaches away from using the "inferior method" which the argument of the current Office Action ignores. Given the disclosure of JP '122, it is not predictable that one of ordinary skill in the art, given the

choice among mounting methods may have discarded the positive results shown using the method disclosed in JP '122 in favor of something which the disclosure of JP '122 indicates would have been recognized by those of ordinary skill in the art as having been inferior. While one of ordinary skill in the art may have been led to any one of the arrangements in JP '122, including that shown in Fig. 3, it has not been properly shown that there would have been any predictability on the basis of that disclosure for combining the asserted inferior method in any way to achieve the subject matter of the pending claims. The ongoing assertions by the Office Actions in this regard simply stretch the reasonability of any obviousness rejection beyond its bounds. The conclusions of the Office Action in this regard are not supportable on the record, and the ongoing use of mere conclusory statements in order to support a conclusion which is not shown by the references or otherwise in the prior art, and for which no logical rational objective evidence of record has been shown to support, is without merit.

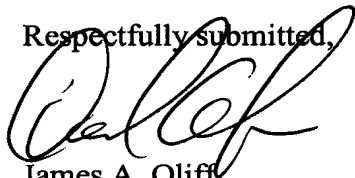
Applicants' disclosure throughout the background and description portions provide ample discussion regarding the unique difficulties in mounting a variable compression ratio engine. This discussion provides additional support regarding why it is not as simple a matter as the Office Actions have attempted to routinely assert that one of ordinary skill in the art may have called upon any conventional mounting with any reasonable expectation of success.

For at least the foregoing reasons, any permissible combination of JP '051 and JP '122 would not reasonably have suggested the combination of all of the features positively recited in independent claim 1. Further, claims 5-9 also would not have been suggested by this combination of references for at least the respective dependence of these claims directly or indirectly on an allowable base claim, as well as for the separately patentable subject matter that each of these claims recites.

In view of the foregoing, Applicants respectfully submit that this application is in condition for allowance. Favorable reconsideration and prompt allowance of claims 1 and 5-9 are earnestly solicited.

Should the Examiner believe that anything further would be desirable in order to place this application in even better condition for allowance, the Examiner is invited to contact Applicants' undersigned representative at the telephone number set forth below.

Respectfully submitted,



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